

AMENDED IN SENATE APRIL 21, 2014
AMENDED IN SENATE MARCH 28, 2014

SENATE BILL

No. 1358

Introduced by ~~Senator~~ *Senators Wolk and Lara*

February 21, 2014

An act to add Sections 15805 and 50535 to the Government Code, and to amend Section 114276 of, and to add Section 118506 to, the Health and Safety Code, relating to public accommodations.

LEGISLATIVE COUNSEL'S DIGEST

SB 1358, as amended, Wolk. Baby diaper changing stations.

(1) Existing law establishes ~~various requirements and imposes on state and local agencies, including agencies various requirements governing relating to the acquisition, construction, and renovation of~~ public buildings.

This bill would require new construction or renovation of a public building, as specified, that is owned by a state or a local agency, or a portion of a building that is owned by a state or local agency and includes at least one restroom that is open to the public, to provide on each floor level containing one or more restrooms that are accessible to the public at least one safe, sanitary, and convenient baby diaper changing station, as specified. The bill would require each station to be maintained, repaired, and replaced as necessary to ensure safety and ease of use, and to be cleaned with the same frequency as the restroom in which it is located. By imposing a higher level of service on local agencies, the bill would impose a state-mandated local program.

(2) Existing law, the California Retail Food Code, establishes uniform health and sanitation standards for retail food facilities and provides for the enforcement of those standards by local health agencies and by

the State Department of Public Health, as specified. Among other sanitation standards, the code requires a permanent food facility to provide clean toilet facilities in good repair for consumers, guests, or invitees if the food facility was constructed after July 1, 1984, and has more than 20,000 square feet of floor space. A violation of these provisions is a crime.

This bill would require that a baby changing table *accessible to both men and women* be provided within or adjacent to toilet rooms unless the addition of a baby changing table would result in noncompliance with a law relating to access for persons with disabilities, as determined by the local health inspector. ~~The bill would provide that a violation of this requirement is not a crime~~ *the first violation of this provision would result in a warning, and that subsequent violations would constitute an infraction punishable by a fine of not more than \$250.* By *creating a new crime and by* imposing a higher level of services on local health agencies, the bill would impose a state-mandated local program.

(3) Existing law requires publicly and privately owned facilities where the public congregates to be equipped with sufficient restrooms to ~~met~~ *meet the need* needs of the public at peak hours.

This bill would require various facilities, including a theater, sports arena, or library, to install and maintain at least one baby diaper changing station if the facility is open to the public, as specified. ~~The bill would provide that a civil penalty may be imposed for a violation of this requirement, as specified.~~ *The bill would authorize local health inspectors to enforce this provision. The bill would also provide that the first violation of this provision shall result in a warning, but that subsequent violations shall constitute an infraction punishable by a fine of not more than \$250. By creating a new crime, the bill would impose a state-mandated local program.*

(4) The bill would set forth findings and declarations stating that ensuring that safe, sanitary, and convenient baby diaper changing stations are widely available throughout the state is a matter of statewide concern.

~~(5) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.~~

(5) *The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.*

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 15805 is added to the Government Code,
2 to read:
3 15805. (a) A public building that is owned by a state agency,
4 or a portion of a building that is owned by the state and includes
5 at least one restroom that is open to the public, shall provide on
6 each floor level containing one or more restrooms that are
7 accessible to the public at least one safe, sanitary, and convenient
8 baby diaper changing station that is accessible to women entering
9 a restroom provided for use by women and at least one safe,
10 sanitary, and convenient baby diaper changing station that is
11 accessible to men entering a restroom provided for use by men,
12 *or at least one safe, sanitary, and convenient baby diaper changing*
13 *station that is accessible to both men and women.* Each station
14 shall include signage at or near the entrance to the station indicating
15 the location of the baby diaper changing station. If there is a central
16 directory identifying for the benefit of the public the location of
17 offices, restrooms, and other facilities in the building, that central
18 directory shall indicate the location of the baby diaper changing
19 stations. Each baby diaper changing station shall be maintained,
20 repaired, and replaced as necessary to ensure safety and ease of
21 use, and shall be cleaned with the same frequency as the restroom
22 in which it is located.
23 (b) Subdivision (a) applies to all new construction and all
24 renovations in which the estimated cost of the renovation is fifty
25 thousand dollars (\$50,000) or more.

1 SEC. 2. Section 50535 is added to the Government Code, to
2 read:

3 50535. (a) A public building that is owned by a local agency,
4 or a portion of a building that is owned by a local agency and
5 includes at least one restroom that is open to the public, shall
6 provide on each floor level containing one or more restrooms that
7 are accessible to the public at least one safe, sanitary, and
8 convenient baby diaper changing station that is accessible to
9 women entering a restroom provided for use by women and at
10 least one safe, sanitary, and convenient baby diaper changing
11 station that is accessible to men entering a restroom provided for
12 use by men, *or at least one safe, sanitary, and convenient baby*
13 *diaper changing station that is accessible to both men and women.*
14 Each station shall include signage at or near the entrance to the
15 station indicating the location of the baby diaper changing station.
16 If there is a central directory identifying for the benefit of the public
17 the location of offices, restrooms, and other facilities in the
18 building, that central directory shall indicate the location of the
19 baby diaper changing stations. Each baby diaper changing station
20 shall be maintained, repaired, and replaced as necessary to ensure
21 safety and ease of use, and shall be cleaned with the same
22 frequency as the restroom in which it is located.

23 (b) Subdivision (a) applies to all new construction and all
24 renovations in which the estimated cost of the renovation is fifty
25 thousand dollars (\$50,000) or more.

26 SEC. 3. Section 114276 of the Health and Safety Code is
27 amended to read:

28 114276. (a) A permanent food facility shall provide clean
29 toilet facilities in good repair for use by employees.

30 (b) (1) A permanent food facility shall provide clean toilet
31 facilities in good repair for consumers, guests, or invitees when
32 there is onsite consumption of foods or if the food facility was
33 constructed after July 1, 1984, and has more than 20,000 square
34 feet of floor space.

35 (2) Notwithstanding Section 113984.1, toilet facilities that are
36 provided for use by consumers, guests, or invitees shall be in a
37 location where consumers, guests, and invitees do not pass through
38 food preparation, food storage, or utensil washing areas to reach
39 the toilet facilities.

(3) For purposes of this section, a building subject to paragraph (1) that has a food facility with more than 20,000 square feet of floor space shall provide at least one separate toilet facility for men and one separate toilet facility for women.

(4) For purposes of this section, the gas pump area of a service station that is maintained in conjunction with a food facility is not property used in connection with the food facility and shall not be included in determining the square footage of floor space of the food facility.

(c) (1) Toilet rooms shall be separated by well-fitted, self-closing doors that prevent the passage of flies, dust, or odors.

(2) Toilet room doors shall be kept closed, except during cleaning and maintenance operations.

(d) (1) Handwashing facilities, in good repair, shall be provided as specified in Sections 113953 and 113953.3.

(2) A baby changing table *accessible to both men and women* shall be provided within or adjacent to toilet rooms unless the addition of a baby changing table would result in noncompliance with a law relating to access for persons with disabilities, as determined by the local health inspector. Notwithstanding Section 114395, ~~a violation of this provision is not a crime~~ *the first violation of this paragraph shall result in a warning. Subsequent violations shall constitute an infraction punishable by a fine of not more than two hundred fifty dollars (\$250).*

(e) A city, county, or city and county may enact ordinances that are more protective of the public health than this section.

(f) (1) Except as provided in paragraph (1) of subdivision (b), any building that is constructed before January 1, 2004, that has a food facility that provides space for the consumption of food on the premises shall either provide clean toilet facilities in good repair for consumers, guests, or invitees on property used in connection with, or in, the food facility or prominently post a sign within the food facility in a public area stating that toilet facilities are not provided.

(2) The first violation of paragraph (1) shall result in a warning. Subsequent violations shall constitute an infraction punishable by a fine of not more than two hundred fifty dollars (\$250).

(3) The requirements of this section for toilet facilities that are accessible to consumers, guests, or invitees on the property may

1 be satisfied by permitting access by those persons to the toilet and
2 handwashing facilities that are required by this part.

3 SEC. 4. Section 118506 is added to the Health and Safety Code,
4 to read:

5 118506. (a) A theater or movie house, sports arena, auditorium,
6 cultural complex, exhibition hall, library, passenger terminal,
7 permanent amusement park structure, restaurant with a seating
8 capacity of at least 50 seats, except as described in subdivision
9 (b), shopping center of more than 25,000 square feet, tourist
10 attraction, or retail store of more than 5,000 square feet shall install
11 and maintain at least one baby diaper changing station if the facility
12 is open to the public. There shall be at least one station that is
13 accessible to women entering a restroom provided for use by
14 women and one that is accessible to men entering a restroom
15 provided for use by men, *or at least one safe, sanitary, and*
16 *convenient baby diaper changing station that is accessible to both*
17 *men and women.*

18 (b) For purposes of this section, a “restaurant with a seating
19 capacity of at least 50 seats” does not apply to a restaurant if there
20 is centrally located facility with a baby diaper changing station
21 located within 300 feet of the entrance to the restaurant.

22 (c) This section shall not be enforceable by a private right of
23 action.

24 ~~(d) A civil penalty not to exceed two hundred fifty dollars (\$250)~~
25 ~~may be imposed for each violation of this section. The penalty~~
26 ~~may be recovered in a civil action brought by the Attorney General,~~
27 ~~or the district attorney or city attorney, or by a city prosecutor in~~
28 ~~a city and county.~~

29 *(d) Local health inspectors may enforce this section. The first*
30 *violation of this section shall result in a warning. Subsequent*
31 *violations shall constitute an infraction punishable by a fine of not*
32 *more than two hundred fifty dollars (\$250).*

33 SEC. 5. The Legislature finds and declares that ensuring that
34 safe, sanitary, and convenient baby diaper changing stations are
35 widely available throughout the state is a matter of statewide
36 concern, and not a municipal affair. Therefore, ~~Section 1 of this~~
37 ~~act is applicable to the University of California and Section 2 of~~
38 ~~this act is applicable to charter cities, charter counties, and charter~~
39 ~~cities and counties. The Legislature encourages the University of~~
40 *California to comply with Section 1 of this act.*

1 ~~SEC. 6. If the Commission on State Mandates determines that~~
2 ~~this act contains costs mandated by the state, reimbursement to~~
3 ~~local agencies and school districts for those costs shall be made~~
4 ~~pursuant to Part 7 (commencing with Section 17500) of Division~~
5 ~~4 of Title 2 of the Government Code.~~

6 *SEC. 6. No reimbursement is required by this act pursuant to*
7 *Section 6 of Article XIII B of the California Constitution for certain*
8 *costs that may be incurred by a local agency or school district*
9 *because, in that regard, this act creates a new crime or infraction,*
10 *eliminates a crime or infraction, or changes the penalty for a crime*
11 *or infraction, within the meaning of Section 17556 of the*
12 *Government Code, or changes the definition of a crime within the*
13 *meaning of Section 6 of Article XIII B of the California*
14 *Constitution.*

15 *However, if the Commission on State Mandates determines that*
16 *this act contains other costs mandated by the state, reimbursement*
17 *to local agencies and school districts for those costs shall be made*
18 *pursuant to Part 7 (commencing with Section 17500) of Division*
19 *4 of Title 2 of the Government Code.*